



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

KIN/170365

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 30, 2015, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF § 58.08(2)(b), to review a decision by the Professional Services Group ["PSG"] in regard to Kinship Care, a Hearing was held via telephone on December 22, 2015.

The issue for determination is whether it was correct to deny Kinship Care payments to petitioner.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue, Room G200  
Madison, Wisconsin 53703

BY: [REDACTED], Lead Kinship Assessor, PSG  
Bureau of Milwaukee Child Welfare  
1555 Rivercenter Drive  
Milwaukee, WI 53212

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (55 years old) is a resident of Milwaukee County, Wisconsin.

2. On September 16, 2015 petitioner applied for Kinship Care benefits for her 3 grandchildren (“MLM”; female age 7 years old // BMM; male age 5 years old // TMM; male age 2 years old); the 3 grandchildren have lived with petitioner since August 2015.
3. The mother of the 3 grandchildren is TH (26 years old); the father (who is petitioner’s son) is BM and is currently incarcerated.
4. TH lives in a 3 bedroom single family home with another family member in Milwaukee, Wisconsin; she currently has no children in her care; she recently obtained employment as a home health aide; she has no criminal history, no medical or mental health issues, no involvement with Child Protective Services [“CPS”], and no known alcohol or other drug issues.
5. By a letter notice dated October 26, 2015 entitled *Kinship Care Denial of Payment and Appeals Rights* PSG denied petitioner’s application for Kinship Care benefits because, among other reasons, there is no need for the grandchildren to be placed with petitioner.

### **DISCUSSION**

Eligibility for Kinship Care payments is governed by state law. Wis. Stat. § 48.57(3m) (2013-14); Wis. Admin. Code § DCF 58.01 (October 2015). Under state law, a person must satisfy several requirements to be eligible for Kinship Care. Wis. Stat. § 48.57(3m)(am) (2013-14); Wis. Admin. Code § DCF 58.10 (October 2015). If a person satisfies these requirements, he or she is eligible for Kinship Care.

One of the requirements for Kinship Care is that there is a need for the child to be placed with the Kinship Care relative. Wis. Stat. § 48.57(3m)(am)1m. (2013-14); Wis. Admin. Code § DCF 58.10(1) (September 2010). Given the evidence in the record of this matter I must conclude that PSG was correct to deny Kinship Care. There is no need for the grandchildren to live with petitioner because they could live with their mother (JH). There is nothing in the record of this matter that shows that the grandchildren could not live with their mother (JH).

Petitioner argues that she cannot afford to take care of the grandchildren. That might be correct -- but that, by itself, is not a reason that Kinship Care can be granted. Eligibility criteria must be satisfied.

This *Decision* only means that petitioner cannot receive Kinship Care payments for taking care of her grandchildren, it does not mean that her grandchildren cannot live with her.

It is not necessary to consider the other reasons PSG denied Kinship Care.

### **CONCLUSIONS OF LAW**

For the reasons discussed above, PSG was correct to deny Kinship Care payments to petitioner.

**NOW, THEREFORE, it is**

### **ORDERED**

That the petition for review herein be and the same is hereby DISMISSED.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 2nd day of February, 2016

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\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on February 2, 2016.

Professional Services Group - PSG

DCF - Kinship Care

DCF - Kinship Care